

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Bobby Poke, Sr.,

Civ. No. 06-0005 (PAM/JSM)

Petitioner,

v.

MEMORANDUM AND ORDER

R.L. Morrison, Warden,

Respondent.

This matter is before the Court on Respondent's Objections to United States Magistrate Judge Janie S. Mayeron's Report and Recommendation ("R&R") dated February 21, 2006. The R&R recommended that this Court grant Petitioner's application for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, and order Respondent to reconsider when Petitioner should be assigned to a community confinement center in light of the criteria set forth in 18 U.S.C. § 3621(b) and without regard to 28 C.F.R. §§ 570.20 and .21.

The Court has conducted a de novo review of the Objections and the record. See 28 U.S.C. § 636(b)(1); D. Minn. LR 72.2(b). Upon review, the Court finds that the Magistrate Judge correctly found the Bureau of Prisons' February 2005 Rules invalid. See Hayek v. Caraway, No. 05-1424, 2005 WL 3334600 (D. Minn. Dec. 7, 2005) (Magnuson, J.); Young v. Caraway, No. 05-1476, 2006 WL 562143 (D. Minn. Mar. 7, 2006) (Ericksen, J.); Choudhury v. Morrison, No. 06-241, 2006 WL 763207 (D. Minn. Mar. 2, 2006) (Frank, J.); Ragsdale v. Caraway, No. 05-1596, 2006 WL 44017 (D. Minn. Jan 6, 2006) (Davis, J.).

Accordingly, **IT IS HEREBY ORDERED THAT:**

1. The Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 (Docket No. 1) is **GRANTED**;
2. The R&R (Docket No. 9) is **ADOPTED**; and
3. Respondent is directed to reconsider the date when Petitioner should be assigned to a community confinement center in light of the criteria set forth in 18 U.S.C. § 3621(b) and without regard to 28 C.F.R. § 570.20 and 570.21.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: March 30, 2006

s/ Paul A. Magnuson
Paul A. Magnuson
United States District Court Judge